

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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ANTONIO RODRIGUEZ,

Plaintiff,

Docket No.: 1:23-cv-09432

-against-

**ANSWER WITH  
AFFIRMATIVE DEFENSES**

H SPECIAL, INC and  
JACINTO TORRES, *individually*,

Defendants.

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Defendants, H Special Inc. (“H Special”) and Jacinto Torres (“Torres” and collectively with H Special, “Defendants”), by and through their attorneys, Book Law LLP, as and for their Answer with Affirmative Defenses to the plaintiff, Antonio Rodriguez’s (“Plaintiff”) Complaint dated and filed on October 26, 2023 (“Complaint”), state as follows:

**ANSWERING NATURE OF THE ACTION**

1. Defendants neither admit nor deny the allegations in Paragraph 1 of the Complaint as Plaintiff’s theory of recovery. To the extent that a response is required, Defendants deny the allegations set forth in Paragraph 1 of the Complaint.

**ANSWERING JURISDICTION, VENUE AND PROCEDURAL PREREQUISITES**

2. Defendants neither admit nor deny the allegations in Paragraph 2 of the Complaint as a conclusion of law. To the extent that a response is required, Defendants admit the allegations set forth in Paragraph 2 of the Complaint.

3. Defendants neither admit nor deny the allegations in Paragraph 3 of the Complaint as a conclusion of law. To the extent that a response is required, Defendants admit the allegations set forth in Paragraph 3 of the Complaint.

4. Defendants neither admit nor deny the allegations in Paragraph 4 of the Complaint as a conclusion of law. To the extent that a response is required, Defendants admit the allegations set forth in Paragraph 4 of the Complaint.

5. Defendants neither admit nor deny the allegations in Paragraph 5 of the Complaint as a conclusion of law. To the extent that a response is required, Defendants deny the allegations set forth in Paragraph 5 of the Complaint.

#### **ANSWERING PARTIES**

6. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 6 of the Complaint.

7. Defendants deny information and knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 7 of the Complaint.

8. Defendants admit the allegations set forth in Paragraph 8 of the Complaint.

9. Defendants admit that H Special manages real property located at 114 East 122 Street, New York, New York (the “Property”), and that Plaintiff executed job duties at the Property, but deny the remainder of the allegations set forth in Paragraph 9 of the Complaint.

10. Defendants admit that Plaintiff was an employee of H Special and executed job duties at the Property, but deny the truth of the allegations set forth in Paragraph 10 of the Complaint.

11. Defendants deny the allegations set forth in Paragraph 11 of the Complaint.

#### **ANSWERING MATERIAL FACTS**

12. Defendants admit that Plaintiff began work for H Special on September 15, 2022 as a super’s assistant at the Property, but deny the remainder of the allegations set forth in Paragraph 12 of the Complaint.

13. Defendants admit that Plaintiff assisted Torres at the Property, but deny the remainder of the allegations set forth in Paragraph 13 of the Complaint.

14. Defendants deny the allegations set forth in Paragraph 14 of the Complaint.

15. Defendants deny the allegations set forth in Paragraph 15 of the Complaint.

16. Defendants deny the allegations set forth in Paragraph 16 of the Complaint.

17. Defendants deny the allegations set forth in Paragraph 17 of the Complaint.

18. Defendants deny the allegations set forth in Paragraph 18 of the Complaint.

19. Defendants deny the allegations set forth in Paragraph 19 of the Complaint.

20. Defendants deny the allegations set forth in Paragraph 20 of the Complaint.

21. Defendants deny the allegations set forth in Paragraph 21 of the Complaint.

22. Defendants deny the allegations set forth in Paragraph 22 of the Complaint.

23. Defendants deny the allegations set forth in Paragraph 23 of the Complaint.

24. Defendants deny the allegations set forth in Paragraph 24 of the Complaint.

25. Defendants deny the allegations set forth in Paragraph 25 of the Complaint.

26. Defendants deny the allegations set forth in Paragraph 26 of the Complaint.

27. Defendants deny the allegations set forth in Paragraph 27 of the Complaint.

28. Defendants deny the allegations set forth in Paragraph 28 of the Complaint.

29. Defendants admit that Plaintiff pleaded for work after being told he was no longer needed and was offered to work at the Brooklyn building, but deny the remainder of the allegations set forth in Paragraph 29 of the Complaint.

30. Defendants admit the allegations set forth in Paragraph 30 of the Complaint.

31. Defendants deny the allegations set forth in Paragraph 31 of the Complaint.

32. Defendants deny the allegations set forth in Paragraph 32 of the Complaint.

- 33. Defendants deny the allegations set forth in Paragraph 33 of the Complaint.
- 34. Defendants deny the allegations set forth in Paragraph 34 of the Complaint.
- 35. Defendants deny the allegations set forth in Paragraph 35 of the Complaint.
- 36. Defendants deny the allegations set forth in Paragraph 36 of the Complaint.
- 37. Defendants deny the allegations set forth in Paragraph 37 of the Complaint.
- 38. Defendants deny the allegations set forth in Paragraph 38 of the Complaint.
- 39. Defendants deny the allegations set forth in Paragraph 39 of the Complaint.
- 40. Defendants deny the allegations set forth in Paragraph 40 of the Complaint.

#### **ANSWERING THE FIRST CAUSE OF ACTION**

41. With respect to Paragraph 41 of the Complaint, Defendants repeat, reiterate and reallege the Answer Paragraphs 1 through 40 set forth above in response to the allegations referred to in Paragraphs 1 through 40 of the Complaint as if herein fully set forth.

42. Defendants neither admit nor deny the allegations set forth in Paragraph 42 as conclusions of law. To the extent that a response is required, Defendants deny the allegations set forth in Paragraph 42 of the Complaint.

43. Defendants neither admit nor deny the allegations set forth in Paragraph 43 as Plaintiff's theory of recovery. To the extent that a response is required, Defendants deny the allegations set forth in Paragraph 43 of the Complaint.

- 44. Defendants deny the allegations set forth in Paragraph 44 of the Complaint.

#### **ANSWERING THE SECOND CAUSE OF ACTION**

45. With respect to Paragraph 45 of the Complaint, Defendants repeat, reiterate and reallege the Answer Paragraphs 1 through 44 set forth above in response to the allegations referred to in Paragraphs 1 through 44 of the Complaint as if herein fully set forth.

46. Defendants neither admit nor deny the allegations set forth in Paragraph 46 as a statement of law. To the extent that a response is required, Defendants deny the allegations set forth in Paragraph 46 of the Complaint.

47. Defendants deny the allegations set forth in Paragraph 47 of the Complaint.

### **ANSWERING THE THIRD CAUSE OF ACTION**

48. With respect to Paragraph 48 of the Complaint, Defendants repeat, reiterate and reallege the Answer Paragraphs 1 through 47 set forth above in response to the allegations referred to in Paragraphs 1 through 47 of the Complaint as if herein fully set forth.

49. Defendants neither admit nor deny the allegations set forth in Paragraph 49 as a statement of law. To the extent that a response is required, Defendants deny the allegations set forth in Paragraph 49 of the Complaint.

50. Defendants deny the allegations set forth in Paragraph 50 of the Complaint.

### **ANSWERING THE FOURTH CAUSE OF ACTION**

51. With respect to Paragraph 51 of the Complaint, Defendants repeat, reiterate and reallege the Answer Paragraphs 1 through 50 set forth above in response to the allegations referred to in Paragraphs 1 through 50 of the Complaint as if herein fully set forth.

52. Defendants neither admit nor deny the allegations set forth in Paragraph 52 as a statement of law. To the extent that a response is required, Defendants deny the allegations set forth in Paragraph 52 of the Complaint.

53. Defendants deny the allegations set forth in Paragraph 53 of the Complaint.

#### **ANSWERING THE FIFTH CAUSE OF ACTION**

54. With respect to Paragraph 54 of the Complaint, Defendants repeat, reiterate and reallege the Answer Paragraphs 1 through 53 set forth above in response to the allegations referred to in Paragraphs 1 through 53 of the Complaint as if herein fully set forth.

55. Defendants neither admit nor deny the allegations set forth in Paragraph 55 as a statement of law. To the extent that a response is required, Defendants deny the allegations set forth in Paragraph 55 of the Complaint.

56. Defendants deny the allegations set forth in Paragraph 56 of the Complaint.

#### **ANSWERING THE SIXTH CAUSE OF ACTION**

57. With respect to Paragraph 57 of the Complaint, Defendants repeat, reiterate and reallege the Answer Paragraphs 1 through 56 set forth above in response to the allegations referred to in Paragraphs 1 through 56 of the Complaint as if herein fully set forth.

58. Defendants neither admit nor deny the allegations set forth in Paragraph 58 as a statement of law. To the extent that a response is required, Defendants deny the allegations set forth in Paragraph 58 of the Complaint.

59. Defendants deny the allegations set forth in Paragraph 59 of the Complaint.

#### **ANSWERING THE SEVENTH CAUSE OF ACTION**

60. With respect to Paragraph 60 of the Complaint, Defendants repeat, reiterate and reallege the Answer Paragraphs 1 through 59 set forth above in response to the allegations referred to in Paragraphs 1 through 59 of the Complaint as if herein fully set forth.

61. Defendants neither admit nor deny the allegations set forth in Paragraph 61 as a statement of law. To the extent that a response is required, Defendants deny the allegations set forth in Paragraph 61 of the Complaint.

62. Defendants deny the allegations set forth in Paragraph 62 of the Complaint.

**ANSWERING THE EIGHTH CAUSE OF ACTION**

63. With respect to Paragraph 62 of the Complaint, Defendants repeat, reiterate and reallege the Answer Paragraphs 1 through 61 set forth above in response to the allegations referred to in Paragraphs 1 through 61 of the Complaint as if herein fully set forth.

64. Defendants neither admit nor deny the allegations set forth in Paragraph 64 as a statement of law. To the extent that a response is required, Defendants deny the allegations set forth in Paragraph 64 of the Complaint.

65. Defendants deny the allegations set forth in Paragraph 65 of the Complaint.

**AFFIRMATIVE DEFENSES**

Defendants' investigation of the facts alleged in the Complaint is ongoing; accordingly, Defendants reserve the right to amend or supplement the allegations contained herein, and to assert any additional defenses that may become known to Defendants during the course of discovery. In asserting the following affirmative defenses, Defendants do not intend to suggest that the matters designated herein as "defenses" are not matters on which Defendants bear the burden of proof. These defenses are set forth cumulatively and in the alternative. Notwithstanding the foregoing, Defendants state the following affirmative and other defenses:

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

Plaintiff's Complaint fails to state a cause of action upon which relief can be granted as a matter of fact and/or law.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred, in whole or in part, by her failure to take reasonable steps to avoid, minimize, or mitigate any alleged damages, if any.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred, in whole or in part, by the doctrine of waiver.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

At all times relevant hereto, Defendants have acted in good faith and have not violated any rights which may be secured to Plaintiff under any federal, state or local laws, rules, regulations or guidelines.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

Each and every action taken by Defendants with respect to Plaintiff was based upon reasonable factors.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE**

Plaintiff has not been damaged by any act of Defendants.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE**

Plaintiff's own culpable conduct caused, in whole or in part, whatever damages he may have suffered.

**AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE**

Plaintiff is not entitled to liquidated and/or punitive damages, in that he can neither demonstrate malice, actual participation, or reckless indifference by H Special, nor can he impute liability for punitive damages to H Special, because of its good faith efforts to comply with applicable law.

WHEREFORE, Defendants respectfully requests that this Court:


- a) Dismiss the Complaint in its entirety;
- b) Deny each and every demand, claim and prayer for relief contained in the Complaint;



- c) Award to Defendants reimbursement for reasonable attorneys' fees and costs incurred in defending this meritless and vexatious action; and
- d) Grant such other and further relief as the Court may deem just and proper.

Dated: New York, New York  
December 26, 2023

**BOOK LAW LLP**

By: \_\_\_\_\_  
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